



STATE OF CONNECTICUT
OFFICE OF THE
PROBATE COURT ADMINISTRATOR

PAUL J. KNIERIM, JUDGE
Probate Court Administrator

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To: Senate Co-Chair Andrew McDonald
House Co-Chair Michael Lawlor
Senate Ranking Member John Kissel
House Ranking Member Arthur O'Neill
Honorable Members of the Judiciary Committee

From: Paul J. Knierim, Judge
Probate Court Administrator

Re: SB1005 An Act Concerning the Assessment of Certain Property in
the Calculation of Probate Fees.

Date: March 9, 2009

This bill was raised at the request of the Office of the Probate Court Administrator to correct a problem with the calculation of probate fees in our courts.

Prior to July 1, 2005, probate fees in decedents' estates were generally calculated with reference to the gross estate as defined in the succession tax statutes. In 2005, the succession tax was repealed, and a revised estate and gift tax substituted for it. The gross estate for estate tax purposes then became the primary basis for determining probate fees. The estate tax statutes define "gross estate" as the *federal* gross estate. These changes have, we believe inadvertently, resulted in two serious problems.

First, because the federal gross estate includes all of the decedent's real and personal property, wherever located, the statute requires that probate fees be calculated on property that the decedent owned both inside and outside Connecticut, even though our probate courts have no jurisdiction over out of state property.

A second problematic situation arises when a decedent who did not reside in Connecticut owned real or personal property in this state. Under those circumstances, the statute requires that we impose a fee on all of the decedent's property, including that which is located out of state.

The result, which we believe to be unconstitutional, has drawn considerable and justifiable criticism from the public and the bar. This bill would rectify the issue by excluding any property outside of Connecticut from the calculation of probate fees. In the case of nonresidents owning property in this state, probate fees would be calculated only with reference to the Connecticut property forming the basis of our court's jurisdiction.

We believe that this proposal would correct an unjustified and unconstitutional burden on the public, and we urge the committee's favorable consideration.